ELECTION to the Board of Editors of the JOURNAL will this year be decided largely on the basis of a thesis competition, the decision being governed somewhat also by the quality of the work of the competitors for the case department. The thesis subjects which follow have been chosen with a view to the presumable qualifications of the average members of the Junior and Middle classes, and the editors hope that many members of both classes may be interested in entering the competition. The subjects are: "The present status of the Sunday laws in the United States." "Contempt of court, out of court or by newspapers." "The advantages of a national bankrupt law." "The right of an infant to rescind his executed contracts." "The tyranny of the political machine." "Samuel J. Tilden." Any one of the above subjects may be selected. The theses should be about four thousand words in length, and should be handed in on or before March 1, 1899, being marked with an assumed name or device, and the true name of the author being enclosed in a sealed envelope—marked with such assumed name or device. To the author of the most meritorious thesis a prize of twenty-five dollars ($25) will be awarded.

COMMENT.

The Federal Court has again passed upon the time of taking effect of the Tariff Act of July 24, 1897. In this case (*U. S.* v. *Hoddard, Haserick, Richards & Co.*, 89 Fed. Rep. 699) the goods were imported in the morning of the day on which the act was signed by the President in the afternoon. The goods were held not subject to the act. The fiction that a day is an indivisible point of time must yield when in conflict with justice and equity. The decisionof Judge Townsend for the Circuit Court for the District of New York in *U. S.* v. *Iselin*, 87 Fed. Rep. 194, was followed. See YALE LAW JOURNAL, vol. 7, p. 272.

A case recently decided by the Supreme Court of Illinois against the Pullman Palace Car Co., while evidently correct, is, by reason of its effect on the future relations of the company, of a very interesting type. In the case (*People* v. *Pullman Palace Car Co.*, 51 N. E. Rep. 564), which was an information in the nature of a quo warranto filed by the Attorney General to forfeit the company's charter, the court held that a corporation, chartered to manufacture railway cars, and empowered to purchase and hold such real estate as might be necessary for the successful prosecution of its business, has no power to purchase real estate on which it lays out a town, with streets and alleys, sewerage, light and water systems, and erect buildings for dwellings, schools, churches and business houses in order to furnish homes and conveniences and necessities of life to its employes, since such scheme was not necessary for the prosecution of its business; nor had the corporation, under

authority to purchase and hold such real estate as the interests of its business may require, the power to own and operate a farm upon which it grows vegetables for sale to its employes. The court also held the fact the company had exercised the power of constructing and maintaining the town of Pullman for fourteen years to be no defense for the usurpation of the powers, since laches could not be imputed to the state; nor did it amount to a concession on the part of the state to the company to exercise such powers, that the Legislature had appointed a committee to investigate the property of the company and ascertain if it was properly taxed, the committee reporting in the affirmative. Judges Craig, Wilkin and Cartwright dissented, taking the view that the present case ought to be brought in line with the cases which permit mining corporations to build houses for their employes in sparsely settled communities (*Locey Coal Mines* v. *Chicago W. and V. Coal Co.*, 131 Ill. 9, 22 N. E. 503; *Moss* v. *Mining Co.*, 5 Hill, 137, affirmed in *Moss* v. *Averell*, 10 N. Y. 449), but the majority of the court held that the proximity of the town of Pullman to Chicago was such that it could be reached by the company's employes without considerable inconvenience, and was not, therefore, rendered "necessary" within the company's charter for the company to construct the town; but on the other hand, if the company had not purchased all the land available for the town, and left it open to competition, it would have been built and constructed by private enterprises in the ordinary and natural manner. It was further held that the company might properly hold buildings in a central location in Chicago for its general offices, although such buildings were more than double its needs, but such as would accommodate its future needs, and might rent such portions not presently needed until its future needs demanded them; that the company may properly sell liquors in its cars; that it may properly own land for the reception of its cars near the Belt Line road; that it may not own stock in the Pullman Iron and Steel Company, but that it may properly furnish its surplus steam, as power, to the Allen Paper Wheel Company and receive compensation therefor.

The Supreme Court of the United States has recently affirmed the decision of the Supreme Court of New York in the case of *People* v. *Roberts* (19 Sup. Ct. 58), which upheld the constitutionality of the statute (Laws, 1880, c. 542 §. 3, amended by Laws, 1889, c. 353, p. 46) imposing a franchise tax upon corporations doing business in the state, but exempting therefrom corporations wholly engaged in manufacturing or mining within the state. No contention was made by plaintiff that the state could not, subject to certain limitations as respects interstate commerce, impose such conditions upon permitting a foreign corporation to do business therein as it chose; but it was claimed that, having come into New York state after complying with all the provisions of law imposing conditions on transacting business within the state, it, as well as all other corporations which manufactured their goods in other states, is discriminated against, within the meaning of such cases as *Robbins* v. *Taxing Distr.*, 120 U. S. 489, and *Minnesota* v. *Barber*, 136 U. S. 313. But the court, in the opinion by Mr. Justice Shiras, decides that the "object" of the law is not to tax the products of other states, while exempting similar domestic goods, since the tax was prescribed for New York corporations as well as for those of other states. The exemption in favor of corporations wholly engaged in carrying on their business within the state included corporations of any state as well as New York. In *Brown* v. *Maryland*, 12 Wheat. 419, the tax was sought to be imposed directly on imported articles or their sale, and hence violation of the interstate commerce clause of the United States Constitution;

while here the tax is upon the franchise and valid, within the decision in *Paul* v. *Virginia*, 8 Wall. 168, and *Horn Silver Min. Co.* v. *New York*, 143 U. S. 305. From this decision Houlan, J. (Brown, J., concurring), vigorously dissents, maintaining that whatever was the "object" of those who passed the statute, its effect was to place a burden on interstate commerce, and cannot be sustained simply because the statute applies alike to the people of all states, including New York. *Minn.* v. *Barber*, supra, and *Robbins* v. *Taxing Distr.*, supra. The case of *Horn Silver Min. Co.* v. *New York*, supra, did not present the precise point here involved as to the authority of the state to tax the manufactures of another state, solely because not products of the taxing state. By this statute New York practically seeks to compel manufacturing concerns of other states to remove their plant to New York or else submit to a taxation, at the discretion of the authorities, which is not imposed on such concerns wholly domestic.

RECENT CASES.

CARRIERS—CONTRACT OF CARRIAGE—BAGGAGE—PACKAGES IN CAR—RUNYAN V. CENTRAL R. C. OF N. J., 41 Atl. (N. J.) 367.—Plaintiff bought a ticket from New York to Elizabeth, N. J., on which was printed the following: "Free transportation allowed for 150 lbs. baggage (wearing apparel only) and Co.'s liability expressly limited to $1 per lb." With this ticket the plaintiff tried to enter a car, but was prevented because he had with him two packages, the contents of which he would not disclose to the railway attendant. On his trial, the plaintiff attempted to introduce evidence that the railway had for a long time acquiesced in, and made accommodation for the carriage of small packages of merchandise of its passengers. This was *held* (four judges dissenting) to be competent evidence, and its refusal was error.

CONSTITUTIONAL LAW—DUE PROCESS OF LAW—DISCRIMINATION—MUNICIPAL CORPORATIONS—PLEASURE DRIVEWAYS—EXCLUSION OF TRAFFIC—ORDINANCES—CICERO LUMBER CO. V. TOWN OF CICERO ET AL., 51 N. E. (Ill.) 758.—The legislative power to authorize a municipality to vacate any of its streets includes the the power to authorize it to limit the use of certain of them to a particular purpose beneficial to the public. Laws, 1889, p. 83, by which the trustees of an incorporated town were empowered to lay out not more than two streets as public driveways for pleasure driving only, on petition of a designated number of the owners of property fronting thereon, and to exclude all other traffic, is not unconstitutional, as depriving an owner thereon of property without due process of law (Const., Art. 2, §2); nor is it class legislation and unjust discrimination, since any citizen may use the road for pleasure only; nor is it a violation of trust imposed on municipal authorities in respect to highways. But an ordinance passed by a municipality under this act, forbidding the use of two streets laid out for a pleasure driveway by traffic vehicles unless special permission of the board of trustees of the town has been obtained, is unreasonable and invalid, since it leaves to unregulated official discretion a matter which should be regulated by permanent local provisions operating generally and impartially.

CONSTITUTIONAL LAW—POLICE POWER—INTERSTATE COMMERCE—DISPENSARY LAW—CONTRABAND LIQUORS—STATE V. HOLLEYMAN ET AL., 31 S. E. (S. C.) 362.